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LOS ANGELES
SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF INTERNATIONAL, a California not-for-profit religious corporation;)	Case No. BC 052395
)	EVIDENTIARY OBJECTIONS TO THE DECLARATION OF GRAHAM E. BERRY AND ALL ATTACHED EXHIBITS FILED IN SUPPORT OF AMICUS CURIAE BRIEF IN OPPOSITION TO PLAINTIFF'S ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION
Plaintiff,)	
vs.)	DATE: May 21, 1992 TIME: 8:30 a.m. DEPT: 88
GERALD ARMSTRONG and DOES 1 through 25, inclusive,)	TRIAL DATE: None MOTION CUT-OFF: None DISCOVERY CUT-OFF: None
Defendants.)	

Plaintiff Church of Scientology International (hereinafter "the Church") hereby submits the following evidentiary objections to the declaration of Graham E. Berry ("Berry") of Lewis, D'Amato, Brisbois & Bisgaard, attorneys of record for amicus curiae Joseph A. Yanny, an individual, and the exhibits submitted in support of the amended amicus curiae brief.

1 Plaintiff objects to specific points in Berry's declaration,
2 and the items of evidence proffered therewith, on the grounds of
3 inadmissibility because of incompetency, lack of preliminary or
4 foundational facts, irrelevancy, hearsay, incorrect form,
5 improper opinion, lack of probative value under section 352 of
6 the California Evidence Code, and failure to request judicial
7 notice. Moreover, much of the offered "evidence" is cumulative
8 or repetitive and serves no purpose other than defendant's intent
9 to prejudice the Court against plaintiff.

10 Plaintiff further objects to Berry's assertion that he has
11 personal knowledge of the facts contained in the declaration. As
12 counsel newly hired by Yanny in 1992, it is clear that Berry does
13 not have personal, firsthand knowledge of matters contained in
14 exhibits arising from various other proceedings including prior
15 proceedings in the present action, the Aznaran action, the first
16 Yanny case, the first Armstrong case, and the various actions
17 represented by attorney Michael Flynn. Mr. Berry was not the
18 author of such exhibits and was not involved in the proceedings.
19 Therefore his entire affidavit is inadmissible and should be
20 excluded, along with the documents it purports to authenticate.
21 Plaintiff respectfully requests that items in Berry's
22 declaration, particularly items specified hereinafter, be deemed
23 inadmissible and disregarded by this Court for purposes of this
24 hearing and for all future purposes.

25 SPECIFIC OBJECTIONS TO EACH ALLEGATION:

26 1. Paragraph 5: Plaintiff objects to Exhibit B, "a
27 document entitled settlement agreement and bearing various
28 dates," on the grounds that it lacks foundation and contains

1 hearsay.

2 2. Paragraph 10: Plaintiff objects to Exhibit G, "copy of
3 memorandum of intended decision" on the grounds it (1) lacks
4 foundation and authentication as a correct copy, (2) lacks
5 relevance, and (3) has not been properly noticed.

6 3. Paragraph 15: Plaintiff objects to Exhibit L, a letter
7 from Berry to Laurie Bartilson, on the grounds of (1) lack of
8 preliminary or foundational facts, and (2) the contents
9 constitute hearsay and inadmissible opinion.

10 4. Paragraph 16: Plaintiff objects to Exhibit M, letter
11 from Armstrong to Eric Lieberman, on the grounds that it (1)
12 lacks preliminary or foundational facts, (2) includes
13 inadmissible hearsay, (3) includes inadmissible opinions, and (4)
14 contains statements devoid of probative value under California
15 Evidence Code § 352.

16 5. Paragraph 18: Plaintiff objects to Exhibit O, a meet
17 and confer statement in Yanny II, on the grounds that it (1)
18 lacks foundation, (2) is irrelevant to this litigation, (3)
19 contains hearsay, (4) contains inadmissible opinions, and (5)
20 contains statements of insufficient probative value under
21 California Evidence Code § 352.

22 6. Paragraph 19: Plaintiff objects to Exhibit P, a copy
23 of a Declaration of Gerald Armstrong, on the grounds that it (1)
24 contains inadmissible opinions of a lay witness, (2) contains
25 inadmissible hearsay, (3) refers to incompetent, irrelevant and
26 non-existent "evidence," (4) is unduly prejudicial, and (5) lacks
27 authentication.

28 7. Paragraph 20: Exhibit Q, excerpts from the March 1992

1 deposition of Gerald Armstrong, is objected to on the grounds
2 that it is (1) inadmissible, (2) incompetent, (3) refers to
3 supposed evidence that is actually non-existent (see, e.g., p.
4 67, lines 24-25, p. 68), (4) is not certified or otherwise
5 authenticated, (5) contains hearsay, and (6) contains irrelevant
6 material (see, e.g., pp. 68, 95, 96, 99).

7 8. Paragraph 21: Exhibit R, excerpts from April 1992
8 deposition of Gerald Armstrong, is objected to on the grounds
9 that it (1) is inadmissible, (2) refers to matters that are
10 irrelevant or non-existent as evidence (see, e.g., pp. 599-602,
11 p. 603, lines 1-3), (3) contains inadmissible opinions (see,
12 e.g., p. 604, 605), (4) contains statements devoid of probative
13 value under California Evidence Code § 352 (See, e.g., p. 605,
14 lines 7-15), and is not certified or otherwise authenticated.

15 9. Paragraph 22: Plaintiff objects to Exhibit S, a
16 supposed writing by L. Ron Hubbard, on the grounds that it (1)
17 lacks foundation and has not been authenticated, (2) is
18 completely irrelevant to this case, (3) is devoid of probative
19 value and unduly prejudicial as it is taken totally out of
20 context and given a distorted meaning by defendants, and (4)
21 contains inadmissible hearsay.

22 Plaintiff respectfully requests that the Court sustain
23 plaintiff's objections to the ersatz evidence submitted in
24 support of Joseph A. Yanny's Amicus Curiae brief and that each
25 and every item specified in the above objections be deemed

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1 inadmissible and disregarded by this Court for purposes of this
2 hearing and for all future purposes.

3 Dated: May 19, 1992

Respectfully submitted,

4 BOWLES & MOXON

5
6 By: 

Laurie J. Bartilson

7 Andrew H. Wilson
8 WILSON, RYAN & CAMPILONGO

9 Attorneys for Plaintiff
10 CHURCH OF SCIENTOLOGY INTERNATIONAL
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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Los Angeles, CA 90028

On May 19, 1992, I served the foregoing document described as EVIDENTIARY OBJECTIONS TO THE DECLARATION OF GRAHAM E. BERRY AND ALL ATTACHED EXHIBITS FILED IN SUPPORT OF AMICUS CURIAE BRIEF IN OPPOSITION TO PLAINTIFF'S ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION on interested parties in this action as follows:

[] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Paul Morantz **BY HAND**
P.O. Box 511
Pacific Palisades, CA 90272

Graham Berry **BY HAND**
Lewis, D'Amato, Brisbois & Bisgaard
221 N. Figueroa St. Suite 1200
Los Angeles, CA 90012

Ford Greene
Hub Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 9490-1949

[x] BY MAIL

[] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice

it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on May 19, 1992 at Los Angeles, California.

**(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressee.

Executed on May 19, 1992, at Los Angeles, California.

(State) I declare under penalty of the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)